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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
Q137-US9

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)].
 on _____

Signature _____

Typed or printed name _____

Application Number
10/665,509Filed
September 17, 2003First Named Inventor
TSUKAMOTO, Hisashi et al.Art Unit
1795Examiner
Keith Walker

Applicant requests review of the final rejection in the above-identified patent application. No amendments are being filed with this request.

This request if being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

Signature

assignee of record of the entire interest.
 See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
 (Form PTO/SB/96)

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 Registration number if acting under 37 CFR 1.34. _____

3/04/2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below*.

*Total of _____ forms are submitted.

This collection of information is required by 37 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in the application of:

Hisashi Tsukamoto et al.

Serial No: 10/665,509

Filed: September 17, 2003

For: ELECTRIC STORAGE BATTERY
CONSTRUCTION AND METHOD OF
MANUFACTURE

Art Unit: 1795

Examiner: WALKER, Keith D.

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pre-Appeal Brief Request for Review

This communication is in response to the Office Action mailed on January 9, 2009 (the pending Office Action). Claims 58 is the only independent claim that remains pending. Claim 58 stands rejected under 35 USC §103 as being unpatentable over U.S. Patent No. 5,501,916 (Teramoto) in view of U.S. Patent No. 6,399,242 (Kitoh).

REMARKS

To support the pending rejection, the Office Action relies on Teramoto's Figure 9 as described in example 2. The Office Action then argues that "it would have been obvious to one of ordinary skill in the art ... to modify the tabs of Teramoto with the connecting tab locations taught by Kitoh." However, this modification would place both Teramoto's positive electrode 47 and negative electrode 48 in electrical communication with Teramoto's winding core 48. Since the winding core would provide a short between the positive electrode and the negative electrode (C8, L36-38 and C8, L49-50), the result of the suggested modification would be a shorted battery.

Since "the proposed modification cannot render the prior art unsatisfactory for its intended purpose" (heading of MPEP 2143.01) and a shorted battery is clearly unsatisfactory for its intended purpose, claim 58 is patentable over the cited art.

Conclusion

The Applicant respectfully submits that legal error has been made in each of the above rejections. For these reasons, allowance of the currently pending claims is respectfully requested.

Respectfully submitted



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